THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.16618 OF 2006

ORAL ORDER:

The petitioner claims to be a registered contractor executing several works in various departments of State of Andhra Pradesh. In pursuance of the tender notice dated 8.4.2004 issued by the respondents, the petitioner being the successful bidder, was awarded the work relating to widening of Cess from KM 194.00 to 262.00 on UP & DN lines between SC-WP Stations. Accordingly, an agreement dated 28-9-2005 was entered into between the parties and the work is almost complete.

This writ petition is filed questioning the action of the respondents in recovering the seigniorage charges for ordinary earth from the bills presented by the petitioner on the ground that there is no provision under the agreement for recovery of seigniorage charges for ordinary earth. The petitioner relied upon the Government Memo dated 8-2-2003 whereunder the levy of seigniorage charges on ordinary earth was exempted in the absence of a clause for the same in the agreement.

Thus, a Writ of Mandamus has been sought declaring the action of the respondents in recovering the seigniorage charges for ordinary earth from out of the bills payable to the petitioner vide agreement dated 28-9-2005 as arbitrary, illegal and consequently to direct the respondents to implement the Government Memo dated 8-2-2003.

I have heard the learned Counsel for both the parties and perused the material on record.

Having considered the effect of the memo issued by the Government, a Division Bench of this Court in M/s. MRKR-MBGEC v. CHIEF ADMINISTRATIVE OFFICER, CONSTRUCTION, SOUTH

CENTRAL RAILWAY[1] held as under:

> *"… … … Rule 10 of the A.P. Minor Mineral Concession Rules, 1966 provide for levy of seigniorage charges. It declares that seigniorage fee etc. is payable on all minor minerals dispatched or consumed from the land. The rates of seigniorage fee are specified in Schedule-I appended to the Rules. Ordinary sand which is used for civil construction finds mention at Sl.No.9 in Schedule-I of Rule 10. Therefore, on a plain reading of the relevant clauses of the agreements entered into between the petitioners on the one hand and the Railway Administration on the other hand and Rule 10 of the 1966 Rules, it becomes clear that the petitioners are liable to pay seigniorage charges on ordinary sand used for civil construction."*

The Division Bench further held as under :

> *"In our opinion, letter dated 17-9-2004 and Memo dated 15-12-2004 cannot be interpreted so as to relieve the petitioners of their obligation to pay seigniorage charges in terms of the relevant clauses of the agreements, to which reference has been made hereinabove. Clause 27.2 of the Special Conditions and Specifications of Work awarded to M/s. MRKR-MBGEC and similar clauses in the agreements entered into between the remaining petitioners and the Railway Administration make it clear that seigniorage charges are payable by the contractor at the rates fixed by the State Government. These clauses are very widely worded. They provide for levy of seigniorage charges fixed by the Government without specifying any particular mineral. This necessarily means that seigniorage charges are to be levied by the Railway Administration on all minerals for which the rates have been fixed by the State Government. If we read these clauses in conjunction with Rule 10 of the 1966 Rules and Schedule I, then there remains no doubt that seigniorage charges are payable on all minor minerals, including ordinary earth, despatched or consumed from the land. The rates of seigniorage charges/fee are specified in Schedules I and II. Schedule I clearly refers to ordinary sand used for civil construction. Therefore, all contracts like the petitioners*

are duly bound to pay the seigniorage charges on the ordinary sand used for construction purposes."

The ratio laid down by the Division Bench in the above said decision squarely applies to the present case and the petitioner herein also stands on the same footing. Hence, the relief as prayed for cannot be granted.

However, liberty is granted to the petitioner to avail the appropriate alternative remedy as available under law for redressal of his grievance, if any.

Writ Petition is accordingly dismissed. No costs.

G. ROHINI, J.

Dt. 28-8-2006
Kgr

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.16618 OF 2006

DATED: 28TH August, 2006.

Between :

G. Danaiah Goud. … Petitioner

And

The Chief Administrative Officer,
Construction, South Central Railway,
Secunderabad, and another. … Respondents

[1] 2006 (3) ALT 274 (D.B.)